

Buying Property Together



*'Absolutely amazing, so efficient. Couldn't have asked for more from a solicitor.
Would definitely recommend to anyone!'* Conveyancing Client

Our experienced team of conveyancers can offer help and advice if you are considering purchasing a property with someone.

 **Hegarty Solicitors**



'From start to finish the service was quietly thorough and efficient, with prompt responses to my emails and questions.' Conveyancing Client

Many people now buy a property together whether as siblings, parents and children, friends, married or unmarried couples. There are many important issues to be aware of when you are buying property together, and to help you, we have prepared this guide to highlight the main factors to consider.

Please note this is very general guidance as everyone has their own unique circumstances. We recommend that you consider the following factors with your co-purchaser(s) and then have a discussion with a lawyer who can address all the issues and ensure all parties understand the implications.

Mortgage—Whose Name(s) on the Deeds?

If you are taking out a joint mortgage, the lender will insist you buy the property jointly. If only one of you is taking out the mortgage, the lender will insist the property is bought in their name only.

Excellent  

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Sole Name on Deeds

If the property is in only one name, then it generally remains that person's property.

For example: Mr Smith bought a property and took out a mortgage in his name only. His girlfriend, Miss Jones, moved into the property a few months later and paid half of the mortgage payments. After 9 years, the couple decided to separate and Miss Jones thought she was entitled to a share of the property.

Unless Mr Smith and Miss Jones can reach some type of agreement over her entitlement, Miss Jones would probably face difficulties establishing that she is entitled to a share of the property as her name was not on the deeds, and there is no guarantee that she would be successful. The case law relating to cohabitation is changing, and it may be an advantage for unmarried couples to consider entering into a Cohabitation Agreement that could protect both parties' interests.

Joint Names on Deeds

If you have more than one name on the deeds, then you need to decide whether you will be joint tenants or tenants-in-common.

There are important differences between the two terms as explained below.

Difference between joint tenants-in-common

Joint Tenants

If you decide to buy the property as joint tenants it is assumed that the co-owners will own the property in equal shares, even if you have contributed to the purchase in unequal shares.

If one of you dies then the deceased person's interest in the property automatically passes to the survivor(s) and will not be affected by any Will that may have been made.

Many married couples choose this option, but if you have children from a previous relationship, you may wish to consider owning the property as tenants-in-common so your share of the property will pass to your children.

If you choose to purchase as joint tenants and later change your mind, it is possible to change how you hold the property to holding as tenants-in-common.



'Very helpful and kept us updated every step of the way. Couldn't be more helpful!'

Conveyancing Client



'As a first time buyer, we found Hegarty solicitors helpful as they kept us up to date, every step of the process and answered our queries well.' Conveyancing Client

Tenants-In-Common — If you decide to buy the property as tenants-in-common you can decide what proportion each person will own. So, if two people buy the property and one contributed more to the purchase price, then you may decide that the ownership should be split 60:40.

Each person is only entitled to their share of the property, and if the property is sold then they will only receive that percentage of the proceeds.

If one of you dies then the deceased person's share of the property forms part of their estate and does not automatically pass to the other owner(s).

Declaration of Trust — When the property is held as tenants-in-common it is advisable to complete a Declaration of Trust. The Declaration will show the contributions made by each party to enable the property to be purchased, but it can also state details such as who is responsible for the outgoings in respect of the property, the repairs, the mortgage payments, and specify what should happen if one co-owner dies or when the property is sold.

The agreement aims to minimise any possible areas of dispute and would make any future separation less difficult. The Declaration can be beneficial for the purposes of minimising inheritance tax, and often couples with children find it very useful to complete a Declaration of Trust.



'The solicitors were professional, quick to respond to enquiries and deal with problems, efficient, and made the whole process really easy. Would use again.' Conveyancing Client

Time to Make A Will

When you are purchasing a property it is also wise to think about making a Will. If you die without a Will - which is known as intestacy - the following rules apply:

If you decide to buy the property as tenants-in-common, the surviving partner will not automatically be entitled to the remaining share of the property, instead it will become part of the deceased's estate.

If you decide to buy the property as joint tenants and one owner dies without a Will, the rest of their estate will pass to their children, or if they do not have any, to their parents, or brothers and sisters. It will be their relatives who will be responsible for winding up their affairs, and the surviving partner will have no rights to deal with this very personal task.

By making a Will you decide how your estate should be divided and who should handle your affairs.

For more information or to answer any queries you may have on the above points, please contact your conveyancer.

For more information visit [hegarty.co.uk/conveyancing](https://www.hegarty.co.uk/conveyancing)

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Peterborough

48 Broadway
Peterborough, PE1
1YW

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10 Ironmonger
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Oakham

66 South Street
Oakham, LE15
6BQ

01572 757 565

Market Deeping

27 Market Place
Market Deeping,
PE6 8EA

01778 230 120



www.hegarty.co.uk | enquiries@hegarty.co.uk